

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ROTHSCHILD BROADCAST	§	
DISTRIBUTION SYSTEMS, LLC	§	
	§	
Plaintiff,	§	Case No:
	§	
vs.	§	PATENT CASE
	§	
DISH NETWORK CORPORATION	§	
	§	
Defendant.	§	
	§	

COMPLAINT

Plaintiff Rothschild Broadcast Distribution Systems, LLC (“Plaintiff” or “RBDS”) files this Complaint against Dish Network Corporation (“Defendant” or “Dish”) for infringement of United States Patent No. 8,856,221 (hereinafter “the ‘221 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with an office at 1400 Preston Road, Suite 400, Plano, Texas 75093.

4. On information and belief, Defendant is a Nevada corporation, with its principal place of business at 9601 S Meridian Blvd Englewood, CO 80112-5905.

5. On information and belief, this Court has personal jurisdiction over Defendant

because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

VENUE

7. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) because acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District. For example, Defendant has a regular and established place of business at 801 K Ave, Plano, TX 75074. On information and belief, Defendant has other regular and established places of business in this District.

COUNT I **(INFRINGEMENT OF UNITED STATES PATENT NO 8,856,221)**

8. Plaintiff incorporates paragraphs 1-7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, et seq.

10. Plaintiff is the owner by assignment of the '221 Patent with sole rights to enforce the '221 Patent and sue infringers.

11. A copy of the '221 Patent, titled "System and Method for Storing Broadcast Content in a Cloud-based Computing Environment," is attached hereto as Exhibit A.

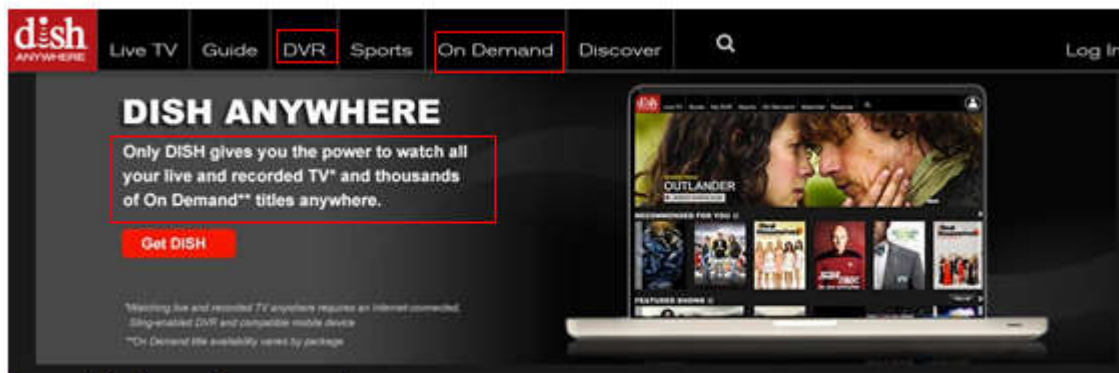
12. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

13. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 1, of the '221 Patent by making, using, importing,

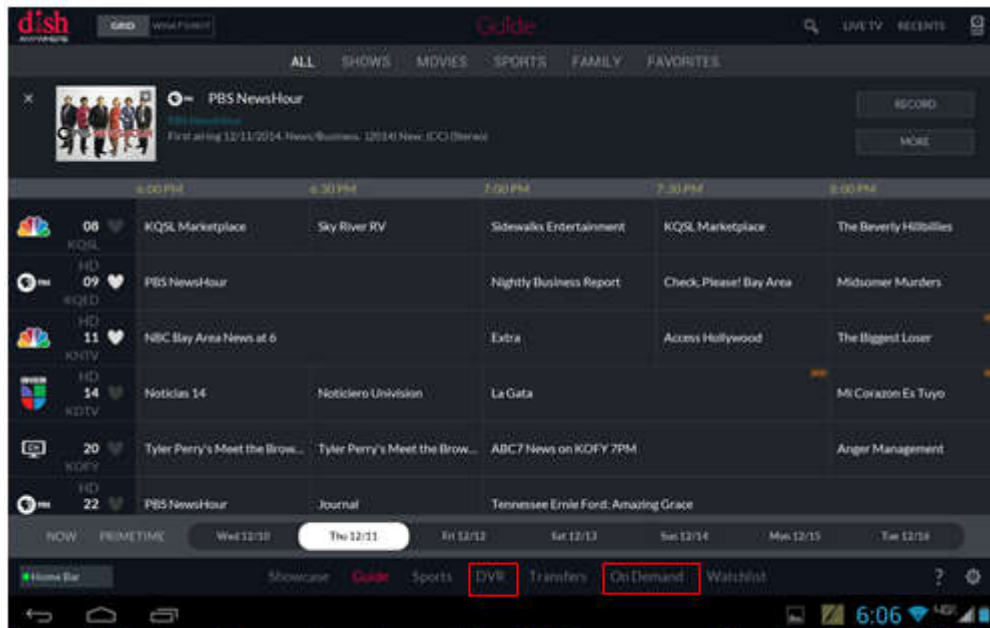
selling, and/or offering for media content storage and delivery systems and services covered by one or more claims of the '221 Patent.

14. Defendant sells, offers to sell, and/or uses media content storage and delivery systems and services, including, without limitation, the Dish Anywhere system and service, and any similar products ("Product"), which infringes at least Claim 1 of the '221 Patent.

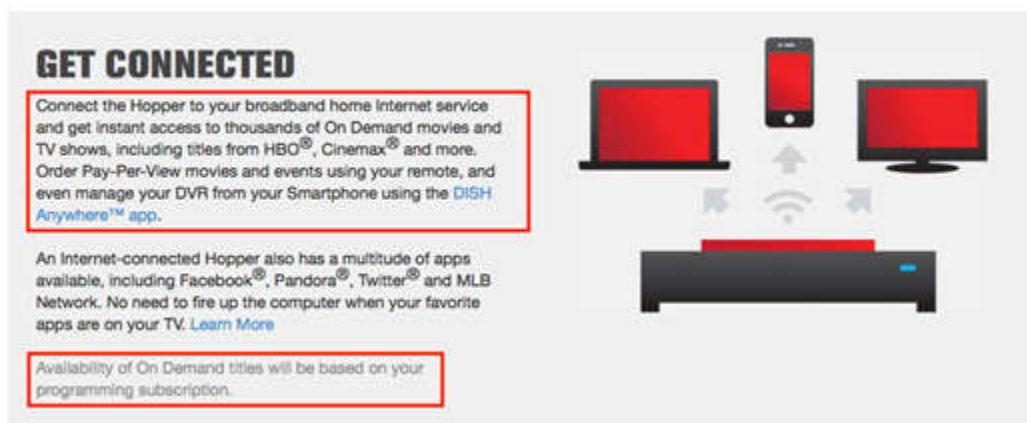
15. The Product is a system for media content storage (e.g., the service allows a user to record TV shows and other content via the DVR functions) and delivery (e.g., the service allows a user to stream TV shows and other content using the On-Demand functions). The system employs the use of a first server. The server involves, incorporates, or is hosted on at least one "back-end" computer (the "server(s)" or "server computer(s)") maintained by Dish Network or its agents. Since a customer can access a variety of multimedia content via the Dish Anywhere feature, a server must be present for the hosting and storage of the content. Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



<https://dishanywhere.com/>



<https://play.google.com/store/apps/details?id=com.sm.SlingGuide.Dish&hl=en>



<https://www.mydish.com/upgrades/products/hopper>

16. The at least one server necessarily includes a receiver configured to receive a request message including media data indicating requested media content and a consumer device identifier corresponding to a consumer device. The server is connected to the Internet and necessarily contains a receiver configured to receive a request message including media data, which indicates the particular video content to transmit to a user. On information and belief, the receiver is also configured to receive a request message that further includes a

consumer device identifier. The Dish Network system limits access to content based upon a customer's subscription, and thus a device must be linked and identified with a customer in order for the device's access to content to be dictated by a customer's subscription status. A customer must provide system information regarding their set top box to a customer representative before Dish Network services can be activated. Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.



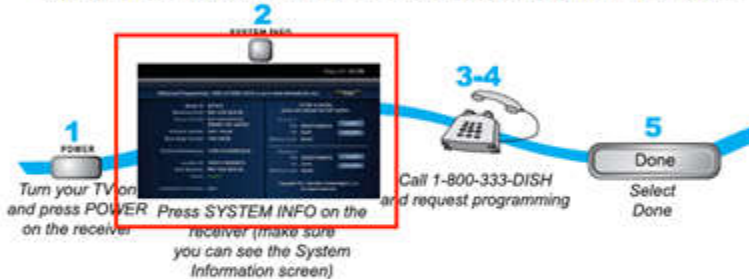
<https://www.mydish.com/upgrades/products/hopper>

ABOUT YOUR DISH ACCOUNT

This section describes how to order your packages and provides information on how to find information about your DISH account.

Ordering Your Programming Packages

Before you can enjoy your new Hopper HD DVR, order your programming packages.



- 1 Press POWER on the front panel to turn on the Hopper.
- 2 Press SYSTEM INFO on the front panel to display the System Information screen on the TV where your Hopper with Sling is located.
- 3 Call 1-800-333-DISH (3474) and tell the Customer Service Center representative that the system has been installed and you would like to begin receiving services. A representative will explain the available DISH packages. Give the representative information from the System Information screen displayed on the TV where your Hopper with Sling is located.
- 4 The representative will send a signal via the satellite to activate your DISH services. This process usually takes just a few minutes.

<https://www.mydish.com/filestream.ashx?ID=2812>

17. The Product necessarily includes a first processor in communication with the first receiver that is configured to determine whether the consumer device identifier corresponds to a registered consumer device. The Product limits access to content based upon a customer's subscription, and thus a device must be linked and identified with a customer in order for the device's access to content to be dictated by a customer's subscription status. A customer must provide system information regarding their set top box to a customer representative before Dish Network services can be activated.

18. The Product provides for both media downloads and/or storage, and media streaming. A processor within the Product necessarily determines if a consumer device identifier corresponds to the registered consumer device. Upon confirming registration, the first server is further configured to determine whether the request message is one of a storage request message and a content request message (e.g., the Product differentiates a user's request

to record or store content using the DVR feature from a user's request to stream content using the On Demand feature).

19. The server verifies that the media content identified in the media data of the storage request message (e.g., request to record content) is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage. The DVR feature allows a user to program the set top box to record a particular TV show, on particular days, and at a particular time. The network verifies that the show designated by the user is in fact being broadcast at the user defined time and date, and can cancel the recording action if the particular show is in fact not being broadcast at the designated time and date. Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.

Reasons Why Timers are Skipped

If a timer is skipped, the reason is stated on the Timers List.

- **Priority**—This timer had a lower priority than other events being recorded at the time.
- **User**—A user chose to skip that timer.
- **Duplicate event**—There is already another timer which is set to record that program.
- **Event exists in DVR**—The program was already recorded and can be found now in the My Recordings list.
- **Not a new episode**—Used for New Episode timers. A New Episode is one that has the word New or the current year listed in the associated Program Guide information.
- **Incorrect event**—For Weekly, Daily, and Monday-Friday timers. If the program guide has a different event listed, then the timer will be skipped. For example, the event timer was set up as a Daily timer on a Saturday, but the specified program is broadcast only weekdays, so instances of the timer will be skipped on the weekends.

<https://www.mydish.com/filestream.ashx?ID=2812>

20. If a customer requests content (e.g., live streaming of media content), then a processor within the Product necessarily initiates delivery of the content to the customer's device. The server will initiate delivery of the requested media content to the consumer device (e.g., stream content) if the request message is a content request message (e.g., request for content streaming). Certain aspects of these elements are illustrated in the screen shot below

and/or in screen shots provided in connection with other allegations herein.

DISH ON DEMAND

DISH On Demand is the DISH Video On Demand service. Enjoy movies, TV shows, and other exciting On Demand events. Through DISH Cinema, for example, you have immediate access to the latest movies on DISH. You can even use your remote's DVR buttons (such as PAUSE, PLAY, FWD, and BACK) to control your viewing experience. For more information, visit the www.mydish.com/vod website.



<https://dishanywhere.com/faqs>

21. The Product can be configured to stream content (e.g., the On-Demand feature) from the server, or deliver permanent downloads (e.g., the DVR feature) to a consumer device. The Product includes time data that indicates a length of time to store the requested media content, after which length of time, the content is automatically deleted from the system. Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.

Use Considerations

- Your receiver must be connected to a network with broadband Internet access to view the DISH Online content. Contact your Internet service provider to verify download speeds and any terms or conditions affecting your broadband Internet connection.
- Most Internet service providers have a "Fair Access Policy" which sets usage limits on the amount that can be downloaded in a given time or billing period. Contact your Internet service provider to find out about their Fair Access Policy.
- Download-speed of programs or events varies depending on the speed of your Internet connection, the program being downloaded, and shared usage of the Internet connection by other devices in your home, such as personal computers.
- You have a limited time frame to watch rented content before it is automatically deleted from your receiver. You will typically have 7 days to begin watching a program, and then you will typically have 24 hours to finish watching it. Review the list on the My Rentals screen on your Hopper for the time remaining to watch rentals.
- You are billed for a rental or on-demand program or event when you begin watching it (which may be while the rest of the program continues downloading) or when downloading of the program or event is completed, whichever occurs first.

<https://www.mydish.com/filestream.ashx?ID=2658>

22. The server must first determine whether the requested media content exists prior to initiating delivery in order to prevent data errors that would result from attempting to transmit media content that does not exist (e.g., broadcast not available at requested time, storage request does not meet restrictions, etc.).

23. After the processor determines whether the requested media content is available, it determines whether there are restrictions associated with the requested media content (e.g., for DVR recordings, the recording may be restricted if the designated content is not available at a designated time, whereas for streamed content, some content can only be streamed upon payment).

24 Defendant's actions complained of herein will continue unless Defendant is enjoined by this court.

25. Defendant's actions complained of herein is causing irreparable harm and

monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

26. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;

(b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receives notice of the order from further infringement of United States Patent No. 8,856,221 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

(c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;

(d) Award Plaintiff pre-judgment and post-judgment interest and costs; and

(e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: August 2, 2018

Respectfully submitted,

/s/ Jay Johnson

JAY JOHNSON

State Bar No. 24067322

D. BRADLEY KIZZIA

State Bar No. 11547550

KIZZIA JOHNSON, PLLC

1910 Pacific Ave., Suite 13000

Dallas, Texas 75201

(214) 451-0164

Fax: (214) 451-0165

jay@kpllc.com

bkizzia@kpllc.com

ATTORNEYS FOR PLAINTIFF

EXHIBIT A